IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.MC.No. 2361 of 2007()

CC.435/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR
CRIME NO.353/93 OF PAYYANNUR POLICE STATION

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PETITIONER: ACCUSED NO.5:

ISMAIL, S/O. KUNHAHAMAD,
MONANGAT HOUSE, RAMANTHALI P.O., VADAKKUMBAD,
PAYYANNUR.

BY ADV. SRI.P.M.HABEEB

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE, PAYYANNUR.

BY P.P. SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2361 OF 2007

Dated this the 24th day of July, 2007

ORDER

The petitioner along with the co-accused faced indictment in a prosecution for offences punishable, inter alia, under Sec.324 read with Sec.149 of the IPC. The petitioner and some of the co-accused were not available for trial. Therefore, the accused, who were available, stood trial. They were found not guilty and acquitted. The case against the absconding accused was split up. Of the absconding accused, one of them entered appearance and the case against him was recalled and registered as C.C.No.626/2000. In that case, trial has already commenced. Subsequently, the petitioner appeared and the case against him is now pending as C.C.No.435/07. Both cases stand posted to 27/7/07. The case of the petitioner stands posted for framing charge. The case against the other accused stands posted for examination of subsequent

witnesses. One witness (C.W.3) has already been examined. According to the petitioner, if the learned Magistrate would pass orders to consolidate the trial of the two cases, that would help considerably in the expeditious disposal of the case against the petitioner. The petitioner is working abroad. The petitioner, in these circumstances, prays that there may be a direction to the learned Magistrate to consolidate the trial in C.C.No.626/2000 and C.C.No.435/07 so that expeditious disposal of both cases can be achieved.

2. As the matter stands posted on 27/7/07, I have no time to call for the remarks of the learned Magistrate and pass appropriate further orders. In these circumstances, I am satisfied that with the appropriate observations this Crl.M.C. can be disposed of. The petitioner must certainly have made the request before the learned Magistrate and left it to the learned Magistrate, at the first instance, to consider such request.

3. In the result, this Crl.M.C. is allowed in part. The petitioner is permitted to forthwith make an application to the learned Magistrate to consolidate the trial in C.C.No.626/2000 and C.C.No.435/07. The learned Magistrate must consider whether such course can be profitably employed to avoid unnecessary waste of further time. Appropriate orders must be

passed by the learned Magistrate on or before 27/7/07 before resuming the proceedings in these two cases.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge